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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/593,160	12/01/2006	Stefan Glueck	INA-60	7557
20311	7590	02/18/2009	EXAMINER	
LUCAS & MERCANTI, LLP 475 PARK AVENUE SOUTH 15TH FLOOR NEW YORK, NY 10016			SLOMSKI, REBECCA	
ART UNIT	PAPER NUMBER			
			2877	
MAIL DATE	DELIVERY MODE			
			02/18/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

***Advisory Action
Before the Filing of an Appeal Brief***

Application No.	Applicant(s)	
10/593,160	GLUECK, STEFAN	
Examiner	Art Unit	
REBECCA C. SLOMSKI	2877	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 31 December 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) The period for reply expires 3 months from the mailing date of the final rejection.
 b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) They raise the issue of new matter (see NOTE below);
 (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. Applicant's reply has overcome the following rejection(s): _____.

6. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fail to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
 See Continuation Sheet

12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.

13. Other: _____.

/L. G. Lauchman/
 Primary Examiner, Art Unit 2877

Continuation of 11, does NOT place the application in condition for allowance because: The arguments presented are not persuasive. With respect to claim 14, the applicant argues that the light source and detector of Chin do not face opposite sides of the component. However, Chin uses a light source and detector coupled with corresponding light pipes, the faces of these light pipes do face opposites sides of the component. Regardless of which direction the light itself is facing, the opening that allows that light to escape is considered the direction of the light source. For this reason, it is maintained that the light source and detector face sides of the component, since the light from the two are only allowed to escape in the direction perpendicular to the component's sides. With respect to claims 21 and 22, applicant argues that Chin fails to disclose a fiber optic cable. Although Chin never uses the words "fiber optic cable" the definition of a fiber optic cable is a light pipe that transmits light in one direction, as described by Chin in Col.3, 143-57. For this reason, the rejection is maintained since there is no physical difference between the light pipe of Chin and a general definition of a fiber optic cable. With respect to claims 16-20 and 25, the applicant argues that Chin ('473) and Chin ('777) fail to disclose the reflector device in proper combination with the rest of the limitations. However, with the amendment to claim 14, claim 16 is rendered undefined with respect to the the light source facing one side of the component, a first sensor facing the other side of the component, and a reflector facing the other side of the component, with the reflector directing light to the sensor. Even if this were clarified, the limitation reads the reflector reflects the portion of the light exiting the slot..."at least intermittently and at least partially" so therefore, the argument that some of the light passes beyond the reflector of Chin, does not convincingly separate Chin from the current application. With respect to claims, 18 and 25, applicant argues that the system of Nahako is unlike the current application and Chin and therefore non applicable. However, Nahako was used simply as evidence that it is well known in the art to have a control device as a reference sensor. Additionally, Nahako was used to show that it is well known in the art to measure rotary bearings, and would be obvious to use the measurement of Chin to do so. Nahako discloses measuring a rotary shaft and its bearing (Abstract).

For these reasons, the rejections of claims as anticipated by Chin ('777) and in view of Chin ('473) would be maintained. Additionally, claim 16 would be rejected under USC 112, 2nd paragraph for failing to particularly disclose the invention, making it unclear as to what side of the component the reflector is facing and how the reflector and the sensor unclearly both face the same side of the component, with the reflector reflecting light to the sensor.